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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,721	02/06/2004	Arnold Jager	JAP 0103W	8323

7590 03/24/2005

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EXAMINER

BUSHEY, CHARLES S

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,721

Applicant(s)

JAGER

Examiner

Scott Bushey

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☒ Claim(s) 11-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the abstract as presented in the preliminary amendment filed May 5, 2004 should have been on a separate sheet. Correction is required. See MPEP § 608.01(b).

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Objections

2. The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 18, it is unclear as to what applicant intends to claim as his invention with respect to the phrase "rubber-like material".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 11-13, and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by either Wyss '606 (Abstract; Figs. 1-3) or Wyss '616 (Abstract; Figs. 1-3).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 16-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Wyss '606 or Wyss '616.

Wyss '606 (Abstract; Figs. 1-3) or Wyss '616 (Abstract; Figs. 1-3) each substantially disclose applicant's invention as recited by instant claims 16-18, and 20, except for the rubber or rubber-like fillers at the end of the support member to provide a full circular member at the ends thereof to facilitate attachment of the membrane thereto by clamping means. The alternative references do however, teach full circular end portions of the inner support member and thus the references suggest providing a support member having a longitudinal recess along most of the

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member and full circular portions to facilitate clamping of the membrane to the support in a sealable manner at the ends thereof. The references also teach tightly clamping the end portions of the membrane sleeve around the imperforate circular end portions of the support with imperforate clamping means, thus affecting complete and permanent closure of any perforations in the membrane sleeve at the clamped areas. It would have been obvious to an artisan at the time of the invention, to provide full circular end portions of the support members as a permanent filler part of the recess, as taught by either of alternative references, and to provide membranes without perforations at the clamping areas, in view of that which would have been obvious to one having ordinary skill in the art at the time of the invention, since the references suggest functional operability that is the same as that of applicant's invention. Furthermore, it would have been obvious to an artisan at the time of the invention, to choose rubber or a rubber-like material for the end portions of the supports of the references, since such would provide a degree of pliability that would insure a good seal at the clamped ends of the membrane.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over either of the alternative references as applied to claims 11-13, and 19 above, and further in view of Ott '425.

Wyss '606 (Abstract; Figs. 1-3) or Wyss '616 (Abstract; Figs. 1-3) each substantially disclose applicant's invention as recited by instant claim 14, except for the recessed area being on the underside of the support member.

Ott '425 (Figs. 1-3) discloses an aerator similar to that of either of the alternative primary references, but wherein the longitudinal recess (28) on the support member is on the underside thereof. It would have been obvious to an artisan at the time of the invention, to modify the placement of the longitudinal recess on the support member of either of the alternative primary

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references, to be on the underside thereof, in view of Ott '425, since such would take advantage of the hydrostatic head of liquid above the aerator to press the membrane against the support when air is not applied to the membrane at sufficient pressure to open the slits thereof.

10. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of the alternative references as applied to claims 11-13, and 19 above, and further in view of Nechine.

Wyss '606 (Abstract; Figs. 1-3) or Wyss '616 (Abstract; Figs. 1-3) each substantially disclose applicant's invention as recited by instant claims 14 and 15, except for the recessed area being on the sides or underside of the support member.

Nechine (Figs. 1 and 2) discloses an aerator similar to that of either of the alternative primary references, but wherein the longitudinal recesses on the support member are on the sides or the underside thereof. It would have been obvious to an artisan at the time of the invention, to modify the placement of the longitudinal recess on the support member of either of the alternative primary references, to be on the sides or underside thereof, in view of Nechine, since such would take advantage of the hydrostatic head of liquid above the aerator to press the membrane against the support when air is not applied to the membrane at sufficient pressure to open the slits thereof.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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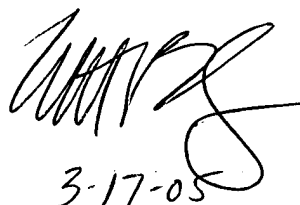
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (571) 272-1153. The examiner can normally be reached on Monday-Thursday 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Bushey
Primary Examiner
Art Unit 1724

csb
3-17-05



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